

[1]
Read 5th March 1759 in Lords



Enacted 32 Geo. II Private Act, c. 38.

An ACT to Impower William Warburton
Esquire to make Leases of Part of his settled
Estate in Malvern Chase, for Ninety-nine
Years, in order for the Cultivating and Im-
proving of the same. ✓



Whereas by Indentures of Lease and Release, bearing Date respectively the Twenty-seventh and Twenty-eighth Days of July One thousand Seven hundred and Fifty-two, the Release being Tripartite, and made or mentioned to be made between the Reverend John Taylour of Isleworth, in the County of Middlesex, Doctor of Laws, and Matthew Bacon of the Middle Temple, London, Esquire, of the First Part; William Warburton of the Middle Temple aforesaid, Esquire, and Barbara Warburton his Wife, of the Second Part; and Richard Warburton of Garrybinch, in the Queen's County, in the Kingdom of Ireland, Esquire, and the Reverend Peter Warburton of Thillcoln, in the County of Meath, in the said Kingdom of Ireland, Clerk, of the Third Part; the said John Taylour and Matthew Bacon, in pursuance and Performance of the Trust vested in them, in and by an Act of Parliament made in the Twenty-third Year of the Reign of his present Majesty, therein recited or referred to, intituled, *An Act for disposing of Part of the real Estate of William Robinson Lytton Esquire, deceased, directed by his Will to be sold for raising Portions for his Daughters, in order to discharge Incumbrances affecting the same, and for other Purposes therein mentioned*; and for other Considerations in the said Indenture Tripartite mentioned, did grant, release, convey, and assure, and the said William Warburton and Barbara his Wife, by virtue and in pursuance of the Power and Authority given and reserved to, and vested in, them, in and by the said Act, and of all other Powers and Authorities whatsoever, vested in, or in any-wise belonging or appertaining to, them, did grant, release, limit, appoint, and confirm, unto the said Richard Warburton and Peter Warburton, and their Heirs, all and every the Messuages, Farms, Lands, Tenements, and Hereditaments, late the Estate and Inheritance of the said William Robinson Lytton deceased, situate, lying, and being, in the several Counties of Worcester, Gloucester, and

and *Hereford*, which, in and by the said Act of Parliament, were settled upon and vested in them the said *John Taylour* and *Matthew Bacon*, and their Heirs, in Trust, to be sold, with their and every of their Rights, Members, and Appurtenances, to hold unto the said *Richard Warburton* and *Peter Warburton*, and their Heirs, to the Uses therein after mentioned; that is to say, To the Use of the said *William Warburton*, for his Life, without Impeachment of Waste; and after his Decease, to the Use of the said *Barbara Warburton*, for her Life, without Impeachment of Waste; with Remainder to the Use of the said *Richard Warburton* and *Peter Warburton*, and their Heirs, during the Lives of the said *William Warburton* and *Barbara* his Wife, and the Life of the longer Liver of them, in Trust, to preserve the contingent Remainders; and after the Decease of the Survivor of them the said *William Warburton* and *Barbara* his Wife, to the Use of all and every the Child and Children of the Body of the said *William Warburton*, on the Body of the said *Barbara* his Wife to be begotten, to take as Tenants in common, and the several Heirs of the Body and respective Bodies of such Child and Children lawfully issuing; and in Default of such Issue, to the Use of the right Heirs of the Survivor of them the said *William Warburton* and *Barbara* his Wife for ever; with Power for the said *William Warburton* during his Life, and for the said *Barbara* his Wife after his Death, by Indenture or Indentures, under their respective Hands and Seals, to demise, lease, and grant, the said Messuages, Lands, Hereditaments, and Premises, thereby released, or any Part thereof, unto any Person or Persons, for any Term or Number of Years, not exceeding Twenty-one Years, to take Effect in Possession, and not in Reversion, so as there be reserved upon every such Lease as great Rent or Rents as then were paid for the same, or the best and most improved yearly Rent and Rents that could at the time of making such Leases be reasonably had or gotten for the same, without taking any Fine, Premium, or Foregift, in respect of the making thereof; and so as in every of the said Leases, so to be made as aforesaid, there be contained a Condition of Re-entry for Nonpayment of Rent or Rents, in case the Rent or Rents be behind or unpaid by the Space of Twenty-one Days; and so as no Clause or Clauses, contained in any of the said Leases, giving Power to any Lessee to commit Waste, or exempting him, her, or them from Punishment for committing the same; and so as the respective Lessees execute Counter-parts of all such said Leases:

And whereas the said *Barbara Warburton* is lately dead, leaving Issue by the said *William Warburton* One Child, named *Richard Warburton*, who is now under the Age of Fourteen Years, and no other Issue:

And whereas a large and considerable Tract and Parcel of Land, in or near a Place called *Malvern Chase* and *Malvern Hills*, in the Counties of *Worcester*, *Gloucester*, and *Hereford*, being Part of the Estate comprised in the said Settlement, lying open, common, and uninclosed, and in a great measure waste and uncultivated, is in its present State and Condition of little or no Profit, Benefit, or Use, to the said *William Warburton*; and there is now a fair Prospect and Opportunity, by granting of Leases for inclosing, cultivating, and building upon the Premises, to make considerable Improvements of the said Estate, and to increase the yearly Income thereof, for the Benefit of the said *William Warburton* and his Son *Richard*, inheritable under the said Settlement:

But as, by reason of and during the Minority of the said *Richard Warburton*, no Lease can be made of any Part of the said Lands and Grounds, so as to give Encouragement to build upon and improve the said Premises, without the Aid and Authority of an Act of Parliament;

Therefore your Majesty's most Dutiful and Loyal Subject, the said *William Warburton*, for himself, and on the Behalf of the said *Richard Warburton* his Infant Son,

Doth



Doth most humbly beseech Your MAJESTY,

That it may be Enacted; And be it Enacted, by the KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful to and for the said *William Warburton*, at any time or times hereafter during his Life, by Indenture or Indentures under his Hand and Seal, to demise, lease, or grant, all or any of the Farms, Lands, Grounds, and Tenements, situate, lying, and being, in, upon, or near, *Malvern Chase* and *Malvern Hills* afore said, comprised in the said recited Settlement, or any Part or Parts thereof, unto any Person or Persons, for any Term or Number of Years not exceeding Ninety-nine Years, to take Effect in Possession, and not in Reversion; so as in every such Lease and Leases, so to be made, there be reserved and made payable, half-yearly or oftener, during the Continuance of the Terms thereby to be granted, the best and most improved yearly Rent and Rents that can be reasonably had or gotten for the same, without taking any Sum of Money or other Thing by way of Fine, Income, or Foregift; and so as the respective Lessees, to whom such Leases shall be made, do execute Counter-parts thereof; and so as in all such Leases there be contained proper Powers or Conditions of Re-entry for Non-payment of the Rent and Rents thereby respectively to be reserved.

And it is hereby further Enacted and Declared, by the Authority afore said, That all and every such Lease and Leases, so to be made of the Premises, in pursuance of this Act, shall be as good, valid, and effectual in the Law, to all Intents and Purposes, as if the said *William Warburton* was seised of the Premises, in and by such Leases respectively to be granted and demised, in Fee-simple in Possession.

Provided nevertheless, and it is hereby further Enacted and Declared, That the Rent or Rents to be reserved on every such Lease and Leases, to be made in pursuance of this Act, shall, after the Death of the said *William Warburton*, go, belong, and be paid, to and for the Benefit of the Person or Persons, who, for the Time being, by virtue of the Limitations contained in the said recited Settlement, shall be intitled to the Freehold and Inheritance of the same Premises, immediately expectant on the Determination of such Leases respectively, any thing herein contained to the contrary notwithstanding.

Saving always to the KING's most Excellent MAJESTY, his Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their respective Heirs, Successors, Executors, and Administrators (Other than and except the said *William Warburton*, and the said *Richard Warburton* the Infant, his Son, and the Heirs of the Body of the said *Richard Warburton* to be begotten, and the Trustees named in the said Settlement or Indenture Tripartite, to preserve the contingent Remainders thereby limited, and the right Heirs of the said *William Warburton*); All such Estate, Right, Title, Interest, Claims, and Demands, of, in, to, or out of the Lands, Grounds, Hereditaments, and Premises, so to be leased as afore said, or any Part thereof, as they, every, or any of them had before the passing of this Act, or could or might have had and enjoyed in case this Act had not been made.

